UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/729,468	CHEFALAS ET AL.
	Examiner	Art Unit	
	ANTHONY MEJIA	2451	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 February 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 and 15</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1 and 15</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>06 December 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   It is hereby acknowledged that Claims 1 and 15 have been amended, and
are now pending in the instant application, and that Claims 2-14 and 16-21 have
been cancelled.

Response to Arguments

2.   Regarding the rejection of Claims 1 and 15 under 35 U.S.C. 103(a), as
being unpatentable over over Woodard et al. (US 7,032,011) (referred herein
after as Woodard) in view of Boxall et al. (US 2003/0046678) (referred herein
after as Boxall) in further view of Crisan et al. (US 2003/0172372) (referred
herein after as Crisan) and yet in further view of Tomoson et al. (US 6,931,523)
(referred herein after as Tomoson).

        Applicant's arguments filed, **02 February 2009**, have been fully
considered, but they are not persuasive. Therefore, the rejection is maintained.
At pages 5-6 of the Remarks Applicants attempt to distinguish the claimed
invention from the prior art by arguing that the conventional second means for
restoring said user configuration by copying said operating system, and a set of
application programs, including said at least one application program from said
set of backup non-specific copies to said user computer in accordance with the
stored parameters of said user configuration, where said second means is stored
on said computer-readable storage medium; wherein, said first means for storing
said user configuration parameters further monitors and records user choices

during an installation process of installing said user configuration and **_overrides_**

user choices according to predetermined parameters of said user configuration is

performed **_automatically_** (emphasis added). Thus, requiring a user such as the

IT administrator recited in Crisan, to make a decision for an end user and

"manually" override the user/selection/decision process.

As to the argument above, the Examiner disagrees that the teachings of

Crisan require a user such as the IT administrator recited in Crisan, to make a

decision for an end user and "manually" override the user/selection/decision

process. In an alternative embodiment, Crisan clearly teaches that system has

the capability of alternatively **_not needing to prompt_** the user to flash the ROM,

thus the client system could **_automatically_** proceed with flashing the ROM

without the client's authorization (emphasis added) (pars [0027-0028]).

It is further noted by the Examiner that claims 1 and 15 do not specify

how acceptance or approval of any override the user/selection/decision process

is performed either "manually" or "automatically". The fact that an override of the

user/selection/decision process is "automatically" performed, as currently

claimed, does not require that acceptance of overriding the

user/selection/decision process to be performed automatically. Such acceptance

could well be performed manually; in any case Crisan teaches both approaches

of "manually" and/or "automatically" of restoring said user configuration.

Applicants further argued that the decision is made by the IT

administrator, during the installation of the software and hence is not **_pre-_**

determined to the installation of that software, because the decision to override

a user-choice is made in ***response*** to a choice made by the user ***during*** installation (emphasis added).

Examiner disagrees that Crisan teaches the decision is made by the IT administrator, ***during*** the installation of the software and hence is not ***pre-determined*** to the installation of that software, because the decision to override a user-choice is made in ***response*** to a choice made by the user ***during*** installation.

As to the argument above, the Examiner disagrees that the teachings of Crisan the decision is made by the IT administrator, ***during*** the installation of the software and hence is not ***pre-determined*** to the installation of that software, because the decision to override a user-choice is made in ***response*** to a choice made by the user ***during*** installation. In an alternative embodiment, Crisan clearly teaches that the system has an alternative capability of ***storing*** an ROM image that can be obtained by the client to install on their system in which the ROM can ***automatically*** be re-flashed ***without user interaction***. Thus, the updated ROMs may be automatically downloaded onto the client system without authorization (pars [0027-0028]).

Applicants are advised to amend Claims 1 and 15 to further specify as to what constitutes "automatically restoring said user configuration", such that is would distinguish over the prior art.

Applicants are further reminded that broadly providing an automatic means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art. See MPEP 2144.04(III.)

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

4.   Claims 1 and 15 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Woodard in view of Boxall in further view of Crisan and yet in

further view of Tomoson.

        Regarding Claim 1, Woodard discloses a system for automatically

configuring reinstall information to a computer (second computer-based device),

said system comprising:

        a server (server 200) for storing (user database 206) user computers'

images (settings/profiles) and their updates (col.5, lines 1-9, and 38-56) and at

least one user computer (first computer-based device) having a user

configuration of a user operating system and at least one application program

(col.5, lines 34-35);

        first means (software module (SEIM)) for storing on said server the

parameters of said user configuration (col.4, lines 30-36 and col.6, lines 7-29)

where said first means is stored on said computer-readable storage medium:

a set of backup non-specific copies, stored on said server dedicated to storing user computers' images and their updates, of a set of operating systems, including said user operating system, and a set of application programs, including said at least one application program (col.5, lines 40-44, col.6, lines 46-49, and col.21, lines 46-55);

means (software module (SEIM)) for accessing said back up non-specific copies of operating systems, including said user operating system, and a set of application programs, including said at least one application program (col.5, lines 40-44, col.7, lines 59-66), where said means for accessing is stored on said computer-readable storage medium; and

second means (software module (SEIM)) for automatically restoring said user configuration by copying said operating system, and a set of application programs, including said at least one application program from said set of backup non-specific copies to said user computer in accordance with the stored parameters of said user configuration (col.8, lines 17-44, and col.21, lines 46-55), where said second means stored on said computer-readable storage medium;

Woodard does not explicitly teach the step wherein, said first means for storing said user configuration parameters further monitors and records user choices during an installation process of installing said user configuration nor wherein the first and the second means are being stored on a computer-readable storage medium, and/or accessed on a computer a computer-readable storage medium.

However, Boxall in a similar field of endeavor discloses a method of installing hardware and corresponding software further comprising the step of:

wherein, a first means (installation script 64) for storing said user configuration parameters further monitors and records user choices during an installation process of installing said user configuration (par [0022], [0025], [0030] and *see* fig.2) and wherein the first and the second means are being stored on a computer-readable storage medium (storage media 12), and/or accessed on a computer a computer-readable storage medium (par [0015], [0021], [0026], and *see* fig.1, element 12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings Boxall in Woodard in order to minimize the waiting time of the installation process by being able to implement previously chosen choices of a previously installed configuration and to be able to read and/or store the configuration on some form of computer media. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Woodard and Boxall to optimize the use of the system by minimizing waiting time and requirements for user intervention during the installation of a previously installed configuration, and to optimize the mobility of the configuration installations on to different systems.

The combined teachings of Woodard and Boxall do not explicitly teach wherein said first means for storing said user configuration parameters further comprises the step wherein said first means comprises the step of: overriding user choices according to predetermined parameters of said user configuration.

However, Crisan in a similar field of endeavor discloses a hardware ROM upgrade through an Internet or Intranet Service including the step wherein said first means comprises the step of: overriding user choices according to predetermined parameters of said user configuration (par [0031]).

It would have been obvious to one of ordinary skill in the art to utilize the teachings of Crisan in the teachings of Woodard/Boxall to allow user interaction in the installation of the configuration. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Woodard/Boxall/Crisan to give the users of the system an opportunity to have amore authority and make selections for a particular system update and/or configuration.

Also, the combined teachings of Woodard/Boxall/Crisan do not explicitly teach the step wherein said first means further monitors and records incremental changes and modifications to said user configuration over the life time of said user configuration.

However, Tomoson in a similar field of endeavor discloses a system and method of providing a known-good configuration for a computer, comprising storing a known-good computer configuration and restoring a known-good configuration via non-interactive user input including the step wherein a first means (software) further monitors and records incremental changes and modifications to said user configuration over the life time of said user configuration (col.5, lines 46-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Tomoson in the Woodard/Boxall/Crisan system in order to store a record of the change configuration information since the last full configuration of a computer. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Woodard/Boxall/Crisan/Tomoson to further conserve the storage space of the system.

In further, the combined teachings of Woodard/Boxall/Crisan/Tomoson further teach wherein said first means further migrates a current computer to a new computer (Woodard: second computer-based device, col.8, lines 17-44), based on said recorded user choices (Boxall: par [0022], [0025], [0030] and *see* fig.2) and said incremental changes and modifications information collected and saved (Tomoson: col.5, lines 46-54), and

said migrating, including installing the newest versions of computer programs, utilities and vendor interfaces from the Internet or from said server dedicated to storing user computers' images and their updates (Woodard: col.5, lines 45-47, and col.7, lines 1-4).

Regarding Claim15, Woodard teaches a means (server 200) for performing a method for operating a system for automatically configuring reinstall information comprising a server for storing user computers' images (settings/profiles) and their updates (col.5, lines 1-9, and 38-56) and at least one user computer (first computer-based device) having a user configuration of a

user operating system and at least one application program (col.5, lines 34-35),
said method comprising:

storing (user database 206) on said server (server 200) the parameters of
said user configuration (col.5, lines 1-9, and 38-56);

storing a set of backup non-specific copies, stored on said server
dedicated to storing user computers' images and their updates of a set of
operating systems, including said user operating system, and a set of application
programs, including said at least one application program, accessing said copies
and automatically restoring said user configuration by copying said operating
system, and a set of application programs, including said at least one application
program from said server dedicated to storing user computers' images and their
updates to said user computer in accordance with the stored parameters of said
user configuration (col.5, lines 40-44, col.6, lines 46-49, and col.21, lines 46-55).

Woodard does not explicitly teach the step wherein: said method further
comprises means for monitoring and recording user choices during an installation
process installing said user configuration and wherein said method is comprised
on an article of manufacture comprising a computer-readable storage medium
usable having computer readable program code means embodied therein.

However, Boxall in a similar field of endeavor discloses a method of
installing hardware and corresponding software further comprising the step of:

wherein, said method further comprises means for monitoring and
recording user choices during an installation process installing said user
configuration (par [0022], [0025], [0030], and *see* fig.2) and wherein said method

is comprised on an article of manufacture comprising a computer-readable

storage medium usable having computer readable program code means

embodied therein (par [0015], [0021], [0026], and *see* fig.1, element 12).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to utilize the teachings Boxall in Woodard in order to

minimize the waiting time of the installation process by being able to implement

previously chosen choices of a previously installed configuration and to be able

to read and/or store the configuration on some form of computer media. One of

ordinary skill in the art at the time the invention was made would have been

motivated to combine the teachings of Woodard and Boxall to optimize the use of

the system by minimizing waiting time and requirements for user intervention

during the installation of a previously installed configuration, and to optimize the

mobility of the configuration installations on to different systems.

The combined teachings of Woodard and Boxall do not explicitly teach

wherein said method further comprises the step of wherein:

overriding user choices according to predetermined parameters of said

user configuration.

However, Crisan in a similar field of endeavor discloses a hardware ROM

upgrade through an Internet or Intranet Service including the step wherein said

method comprises the step of: overriding user choices according to

predetermined parameters of said user configuration (par [0031]).

It would have been obvious to one of ordinary skill in the art to utilize the

teachings of Crisan in the teachings of Woodard/Boxall to allow user interaction

in the installation of the configuration. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Woodard/Boxall/Crisan to give the users of the system an opportunity to have amore authority and make selections for a particular system update and/or configuration.

Also, the combined teachings of Woodard/Boxall/Crisan do not explicitly teach the step wherein said method comprises the steps of:

monitoring and recording incremental changes and modifications to said user configuration over the life time of said user configuration.

However, Tomoson in a similar field of endeavor discloses a system and method of providing a known-good configuration for a computer, comprising storing a known-good computer configuration and restoring a known-good configuration via non-interactive user input including the step wherein a first means (software) further monitoring and recording incremental changes and modifications to said user configuration over the life time of said user configuration (col.5, lines 46-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Tomoson in the Woodard/Boxall/Crisan system in order to store a record of the change configuration information since the last full configuration of a computer. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Woodard/Boxall/Crisan/Tomoson to further conserve the storage space of the system.

In further, the combined teachings of Woodard/Boxall/Crisan/Tomoson further teach wherein said method further comprises the step of migrating a current computer to a new computer (Woodard: second computer-based device, col.8, lines 17-44), based on said recorded user choices (Boxall: par [0022], [0025], [0030] and *see* fig.2) and said incremental changes and modifications information collected and saved (Tomoson: col.5, lines 46-54), and

said migrating, including installing the newest versions of computer programs, utilities and vendor interfaces from the Internet or from said server dedicated to storing user computers' images and their updates (Woodard: col.5, lines 45-47, and col.7, lines 1-4) and overrides user choices according to predetermined parameters of said user configuration (Crisan: par [0031]).

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Examiner has cited particular paragraphs, columns, and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY MEJIA whose telephone number is (571)270-3630. The examiner can normally be reached on Mon-Thur 9:30AM-8:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

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9199 (IN USA OR CANADA) or 571-272-1000.

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